

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

DAVID FRANK, individually and on behalf of all others similarly situated,	X	
	:	
Plaintiff,	:	No. 1:10-CV-05211 (DRH) (ARL)
	:	
v.	:	<b>DECLARATION OF KENNETH M.</b>
	:	<b>KLIEBARD IN SUPPORT OF</b>
TRILEGIANT CORPORATION, AFFINION, INC., 1-800-FLOWERS.COM, and CHASE BANK USA, N.A.,	:	<b>DEFENDANT TRILEGIANT</b>
	:	<b>CORPORATION, INC. AND</b>
	:	<b>AFFINION GROUP, LLC'S</b>
	:	<b>OBJECTION TO PLAINTIFF'S</b>
	:	<b>NOTICE OF VOLUNTARY</b>
Defendants.	:	<b>DISMISSAL</b>
	:	
	X	

I, Kenneth M. Kliebard, state that if called as a witness I could competently testify to the following, all of which is within my personal knowledge, information, or belief.

1. I am a partner in the law firm of Morgan Lewis & Bockius LLP. I am one of the attorneys representing Defendants Trilegiant Corporation and Affinion Group, LLC (collectively "Trilegiant Defendants") in this lawsuit.

2. Attached as Exhibit 1 to my Declaration is a true and correct copy of Plaintiffs' Memorandum of Law in Support of Its Motion for Transfer of Related Actions to the District of Connecticut filed October 6, 2011 in *In re Trilegiant Membership Program Marketing Practices Litigation*, MDL No. 2310.

3. Attached as Exhibit 2 to my Declaration is a true and correct copy of Plaintiff's Response Order to Show Cause filed December 21, 2011 in *Restrepo v. Chase Bank USA, N.A.*, No. 11-cv-00423 (D. Ariz.).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on January 4, 2012.

/s/ Kenneth M. Kliebard

Kenneth M. Kliebard

**CERTIFICATE OF SERVICE**

I hereby certify that on January 4, 2012, I electronically transmitted the above and foregoing to the Clerk's Office using the ECF System for filing, which caused a copy to be served via the Court's electronic filing system to all registered parties.

/s/ Kenneth M. Kliebard